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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|----------------------------|------------------|
| 10/716,691 | 11/18/2003 | Timothy W. Girdalin | 8591-112 | 6613 |
| 36412 | 7590 | 12/28/2005 | | |
| DUCKOR SPRADLING METZGER 401 WEST A STREET, SUITE 2400 SAN DIEGO, CA 92101-7915 | | | EXAMINER HESS, DANIEL A | |
| | | | ART UNIT 2876 | PAPER NUMBER |

DATE MAILED: 12/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

54

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|------------------------------|--------------------------------------|--|--|
| Office Action Summary | Application No. 10/716,691 | Applicant(s) GIRALDIN ET AL. | |
| | Examiner Daniel A. Hess | Art Unit 2876 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 November 2005 and 08 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This action is in response to applicant's amendment and arguments made 11/8/2005, which have been placed in the file of record.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-18 rejected under 35 U.S.C. 103(a) as being unpatentable over Howington (US PG Pub No. 2002/0152120) in view of Flickner et al. (US 2003/0107649).

Re claims 1: (claim aspects are discussed in italics; following that are portions of Howington that are relevant)

Art Unit: 2876

receiving personal identification information of a guest into at least one of a set of stations distributed throughout

Howington teaches:

[0036] “As mentioned earlier, many casinos also employ data gathering techniques (e.g., magnetic swipe cards at each machine) for identifying a patron and associated personal information”

receiving demographic information regarding the registered guest, monitoring movement of the guest over time within the confined area, storing guest movement information;

Howington teaches:

[0036] “associated personal information, *the patron's location within the casino*, that patron's wagering characteristics, that patron's affiliation with other groups or patrons, promotional items or comps related to the patron, and that patron's other activities related to arriving at, enjoying and departing from the casino. Embodiments of the present invention contemplate sharing of the patron related information with the machine management database information described earlier. The sharing of this information allows scores for and evaluations of games and players. Game and player-related relationships may also be compared on any basis such as game type, denomination, location, group, *age, sex, status, and club level* ”

[0022] “Patron information includes a wide variety of data including *tracking patrons throughout the casino and any attached resort attractions*, tracking gaming, credit restaurant, recreational and retail transactions”

creating reports on the demographics and movements of the guest

The collection of data described in paragraphs [0022] and [0036] can broadly be described as a report on a patron/guest since the term report is a broad term and can mean an organized grouping of data.

Art Unit: 2876

Note also that (entire document) the positions of individual gambling locations are known in the system, and thus tracking a user's use of such systems allows tracking the user's physical movements.

Howington fails to teach or fairly suggest continuous monitoring, such that traffic patterns are determined in order to guide the placement of amenities and so forth. He also fails to show monitoring over a continuous area.

Flickner et al. teaches (see notably figure 1; paragraph [0022]) that there is a multiplicity of cameras. These may overlap (paragraph [0009]) to cover an area. (As for "covering substantially the *entire confined area*", if the confined area is defined as the area of camera coverage, the limitation is met). These camera areas are zones. There is monitoring of groups of individuals and tracking of movements in a series of frames (which means successive frames are stored and analyzed), which amounts to 'continuous' monitoring (note that any computer system must necessarily be discrete and thus the word 'continuous' is understood to allow for 'effective continuity' through a series of frames or states). Flickner et al. teaches (paragraph [0009]) " In one preferred implementation of the invention, there is provided a method of **detecting groups** of socially-interrelated individuals within a number of people. The method includes visually **recording movement of the people over time** by generating a series of images. The presence of individuals is detected in the images, and their **movement is tracked to determine their respective trajectories**. " Flickner actually refers to monitoring customer traffic patterns (paragraphs [0002] and [0008]) and uses this information to determine ([0008] and [0062]) when

Art Unit: 2876

additional amenities, namely registers, need to be added. As traffic alleviation is a clear goal in Flickner et al. the location of the additional registers would be important as well.

In view of Flickner et al.'s teaching, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include the old and well-known continuous monitoring of persons to obtain data on traffic patterns to determine the timing and location to add additional amenities as Flickner et al. teaches in the teachings of Howington because detailed and continuous data on a patron's movements in the setting Howington envisions could clearly be mined to further Howington's stated goals of improving customer service and targeted marketing.

Re claim 2:

further including storing information relating to the cashless spending history of the guests at various stations throughout the confined area.

Howington teaches:

[0022]: "tracking gaming, credit restaurant, recreational and retail transactions"

[0023]: "...the present invention also tracks and manages data related to patron hotel transactions and preferences; restaurant purchases, point and comp redemption; retail purchases; and information relating to recreational activities that patrons undertake, such as golf outings, spas, movies and the like."

[0036]: "patron's wagering characteristics"

Re claim 3:

determining spending habits of the guests in response to the stored cashless spending history

[0023]: "Knowledge and analysis concerning such data is obviously desirable for club member and non-club member patrons for targeted marketing efforts and for improving customer service. For this reason, the system of the present

Art Unit: 2876

invention also tracks and manages data related to patron hotel transactions and preferences; restaurant purchases, point and comp redemption; retail purchases; and information relating to recreational activities that patrons undertake, such as golf outings, spas, movies and the like.”

Re claim 4:

sorting information relating to habits of the guests while using the facility as to the demographic information of the guests

[0036]: “Game and player-related relationships may also be compared on any basis such as game type, denomination, location, group, age, sex, status, and club level.”

Re claim 5:

further including storing attraction reservations entered by the guests

[0023]: “tracks and manages data related to patron hotel transactions and preferences; restaurant purchases”

Re claim 6: The collection of data described in paragraphs [0022] and [0036] of Howington can broadly be described as a report on a patron/guest since the term report is a broad term and can mean an organized grouping of data.

Re claims 7, 13: See discussion re claim 1 above. Note in particular that the method described by Howington is also a system, and further note that the system is almost certainly run by software.

Re claims 8, 14: See discussion re claim 2, above.

Re claims 9, 15: See discussion re claim 3, above.

Re claims 10, 16: See discussion re claim 4, above.

Re claim 11, 17: See discussion re claim 5, above.

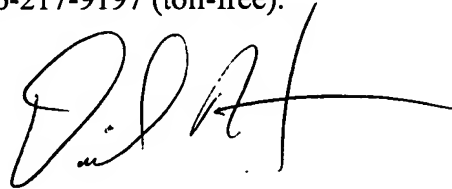
Re claim 12, 18: See discussion re claim 6, above.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel A. Hess whose telephone number is (571) 272-2392. The examiner can normally be reached on 8:00 AM - 5:00 PM M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on (571) 272-2398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'D. A. Hess', with a long horizontal stroke extending to the right.

Daniel A Hess
Examiner
Art Unit 2876

12/19/05